

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

CAMERON INTERNATIONAL
CORPORATION,

Plaintiff,

V.

NITRO FLUIDS, L.L.C.,

Defendant.

CIVIL ACTION NO. 6:20-cv-00125

JURY TRIAL REQUESTED

NITRO FLUIDS' ADVISORY MEMORANDUM REGARDING CONSTRUCTION OF "OUTLET BRANCH(ES)"

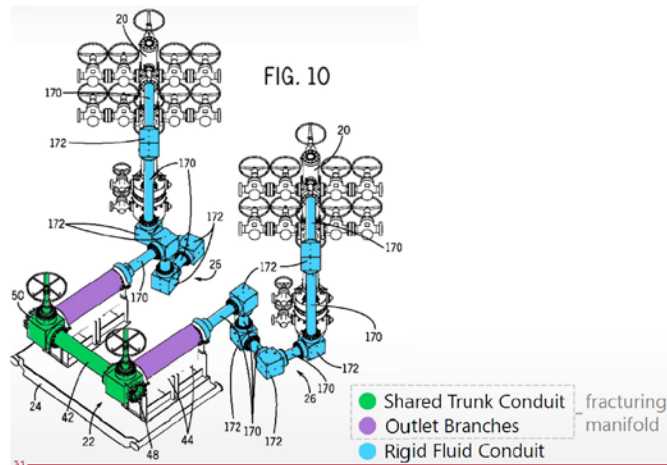
At the October 16, 2020, claim construction hearing, Plaintiff Cameron International Corporation (“Cameron”) proposed two new constructions for the term “outlet branch(es)” in U.S. Patent No. 10,385,645 (the ‘645 patent). Specifically, Cameron proposed that the term be construed, alternatively, as either:

- a) “extension(s) originating from the shared trunk conduit and extending to the rigid fluid conduit(s);” or
- b) “outlet(s) beginning at the shared trunk line and ending at the rigid fluid conduit(s).”

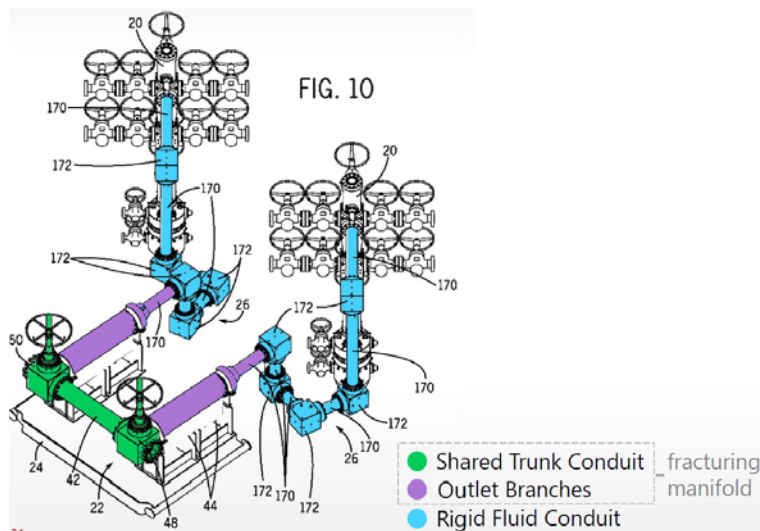
The Court took the new constructions under consideration and indicated that it would change its preliminary construction that the term was indefinite and would instead find the term definite. The Court stated that Nitro Fluids, L.L.C. (“Nitro”) would be given an opportunity to provide its position on Cameron’s new proposed constructions after the hearing.

Despite Cameron’s newly proposed constructions, Nitro believes that “outlet branches” are indefinite because where the outlet branches end cannot be discerned with reasonable certainty.

At the claim construction hearing Cameron used color-coded, annotated figures to map out *its interpretation* of where the outlet branches begin and end. Notably, these figures have considerable structural differences from the actual figures in the patent, which does not use the term “outlet branches” anywhere in the specification. Regardless, in slide 31 Cameron color coded portions of the alleged outlet branches in purple and arbitrarily ended them after the first spool of pipe.



However, nothing in the specification supports Cameron’s interpretation over the other possibilities that exist. It is just as reasonable to interpret the “outlet branches” as extending to the second pipes 170 toward the trees 20 (or even further):



Thus, while Cameron has clearly depicted what the branches *could be* using its color-coded drawings (provided for the first time during the hearing), none of this creative box drawing is actually supported by the specification. The specification is devoid of any mention of “branches” and whether Cameron’s interpretation or any of the other reasonable ones is correct cannot be discerned with reasonable certainty based on the intrinsic record.

For the reasons above, Nitro opposes the adoption of the newly proposed constructions proffered by Cameron during the claim construction hearing. Nitro respectfully requests that the Court adopt its preliminary construction that the term “outlet branch(es)” in the asserted claims of the ’645 patent is indefinite. Nitro reserves all rights to argue indefiniteness either going forward in this litigation (consistent with the Court’s instructions) or on appeal.

If the Court is to change its initial proposed construction for “branches” from indefinite to definite, Nitro believes that the court should simply adopt “plain and ordinary meaning” for this term.

October 20, 2020

Respectfully submitted,

/s/ J. David Cabello

J. David Cabello

Attorney-in-Charge

J. David Cabello

Texas Bar No. 03574500

James H. Hall

Texas Bar No. 24041040

Stephen D. Zinda

Texas Bar No. 24084147

CABELLO HALL ZINDA, PLLC

801 Travis Street, Suite 1610

Houston, TX 77002

Tel: 832-631-9990

Fax: 832-631-9991

Email: david@chzfirm.com

Email: james@chzfirm.com

Email: stephen@chzfirm.com

Attorneys for Defendant Nitro Fluids, LLC

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on October 20, 2020 a true and correct copy of the foregoing document was electronically filed with the Clerk of Court using the CM/ECF system, which sends notifications of such filing to all counsel of record who have consented to accept service by electronic means.

/s/ Sherri Brunner
Sherri Brunner